

1 Q Okay. And Versus is also like
2 that. Correct? It's set at Comcast
3 headquarters. Correct?

4 A Versus has a [REDACTED]

5 [REDACTED].

6 Q Right. In the contract that
7 applies to all the local subsidiaries.
8 Correct?

9 A That's right.

10 Q And the Baseball Channel also has
11 a contract which sets forth its distribution
12 level at the contract it has with Comcast
13 generally. Correct?

14 A That's right.

15 Q And the Hockey Channel also has
16 that.

17 A That's right.

18 Q And the Basketball Channel also
19 has that. Correct?

20 A That's right.

21 Q These costs of distribution are
22 nonetheless at each local unit level.

1 Correct?

2 A That is right.

3 Q And then the local budgets roll up
4 into a big national budget. Right?

5 A That's right.

6 MR. PHILLIPS: Company-wide
7 budget. Correct? Now I want to talk to you
8 about that national budget for just a second.
9 And I'd like to ask --

10 May I approach, Your Honor?

11 JUDGE: You may.

12 MR. PHILLIPS: I'd like to ask --

13 JUDGE: For what purpose?

14 MR. PHILLIPS: I'd like to show
15 the witness an exhibit.

16 JUDGE: Yes.

17 MR. PHILLIPS: And I'd like to put
18 forth the exhibit Tennis Channel 308 which I
19 believe is already in evidence which is the
20 Comcast 2010 annual report on Form 10-K.

21 JUDGE: Thank you very much.

22 THE WITNESS: Thank you.

1 BY MR. PHILLIPS:

2 Q Ms. Gaiski, you've seen this
3 document before, haven't you?

4 A Not this particular one, no.

5 Q But you know what a 10-K is.

6 A Yes.

7 Q And it's the annual statement of
8 how the company is doing. Right?

9 A Yes.

10 Q Now could I ask you to turn to
11 page 39?

12 JUDGE: What year is this
13 particular 10-K?

14 MR. PHILLIPS: This is 2010, Your
15 Honor, last year.

16 JUDGE: Oh yes. It says year
17 ended December 31, 2010. And when does this
18 come out in public?

19 MR. PHILLIPS: You're asking me
20 the hard questions.

21 JUDGE: No, it's an easy question.
22 I mean I know it didn't come out December 31.

1 MR. PHILLIPS: No, I think it came
2 out within the last few months.

3 JUDGE: Okay.

4 MR. PHILLIPS: Last few weeks
5 actually. Mr. Carroll may know better than I
6 do.

7 BY MR. PHILLIPS:

8 Q If you turn to page 39, Ms.
9 Gaiski, it's Cable Segment Results of
10 Operations. Do you see that?

11 A Yes.

12 Q That's your segment. Right?
13 That's the cable distribution segment.
14 Correct?

15 A I believe so.

16 Q Okay. And I just want to make
17 sure we get some of these numbers into the
18 record. For the year ended 2010, the total
19 revenue it says for Comcast Cable was \$35.762.
20 Now it's written as \$35,762. But it's not
21 thousands, is it?

22 A No.

1 Q Do you know what that number is?

2 A I believe it's billion.

3 Q Billions. Okay. So and the total
4 operating expenses, that would include the
5 cost of the networks. Correct?

6 A That's my understanding.

7 Q Okay. And that's \$14 billion.
8 Correct?

9 A That's right.

10 Q And there's some SG&A expenses of
11 around \$7 billion.

12 A Yes.

13 Q So Comcast had operating income
14 before depreciation and amortization of around
15 \$14.5 billion for 2010.

16 A That's what this chart shows.

17 JUDGE: Can you go over that
18 again? Is it M or B? Fourteen?

19 MR. PHILLIPS: Fourteen. No, it's
20 a B.

21 JUDGE: Billion.

22 MR. PHILLIPS: Billion. Yes, sir.

1 JUDGE: Like in bullion.

2 MR. PHILLIPS: As in bullion.

3 MR. CARROLL: Bullriding.

4 MR. PHILLIPS: And billion.

5 JUDGE: I was trying to keep away
6 from that. All right. So it's \$14 billion.

7 MR. PHILLIPS: \$14.5, Your Honor.

8 JUDGE: \$14.5 billion and --

9 MR. PHILLIPS: In 2010.

10 JUDGE: 2010 income. Is that net
11 or gross? That would be gross.

12 MR. PHILLIPS: That's before
13 depreciation and amortization. But it's net
14 of expenses, Your Honor.

15 JUDGE: Okay.

16 MR. PHILLIPS: It's net of all
17 those cable network expenses we've been
18 discussing.

19 JUDGE: I hear you.

20 BY MR. PHILLIPS:

21 Q And that was -- Ms. Gaiski, if I
22 may, that was an increase of 6.5 percent from

1 2010.

2 A That's what the chart shows.

3 Q Okay. And that itself --

4 MR. CARROLL: You misspoke. You
5 meant from 2009.

6 MR. PHILLIPS: I'm sorry. Thank
7 you, Mr. Carroll.

8 JUDGE: I was going to fix that.

9 MR. PHILLIPS: And you guys are
10 ganging up on me, Your Honor.

11 BY MR. PHILLIPS:

12 Q And that was a four percent
13 increase from -- The 2009 number was also a
14 four percent increase from 2008. Is that what
15 this shows?

16 A Yes, it says that from 2008 to
17 2009 it was four percent and from 2009 to 2010
18 it was 6.5 percent.

19 Q And that's in the middle of a
20 financial crisis. Correct?

21 A I'm not an economist or financial.

22 Q Okay. Let me move on because as I

1 said I have a few other questions. Now just
2 to make sure I understand you're on the cable
3 distribution side. Correct?

4 A I'm on the cable TV side.

5 Q Right. And you're distributing --
6 You're acquiring program content to be
7 distributed around the cable systems.

8 A To my cable systems, that's right.

9 Q And you're not on the programming
10 side. You're not one of the people that's
11 helping to put together Versus or Golf or any
12 of those. Correct?

13 A That's right.

14 Q And you're supposed to treat you
15 affiliated channels at arm's length. Right?
16 That's the policy of the company.

17 A That's right.

18 MR. PHILLIPS: I'd like to focus
19 you just for a moment on some correspondence
20 that you had with Mr. Dannenbaum in June of
21 2008.

22 May I approach, Your Honor?

1 JUDGE: Yes. I take it this is
2 related to Mr. Dannenbaum.

3 MR. PHILLIPS: Well, this is some
4 correspondence Ms. Gaiski had with him.

5 JUDGE: All right.

6 MR. PHILLIPS: And this is Tennis
7 Channel Exhibit 506.

8 (Whereupon, the document referred
9 to was marked as Tennis Channel
10 Exhibit No. 506 for
11 identification.)

12 JUDGE: Thank you.

13 MR. CARROLL: Is this already in?

14 MR. PHILLIPS: I don't know if
15 this is in or not.

16 Your Honor, unless Mr. Carroll has
17 an objection, I would move its admission.

18 MR. CARROLL: No objection.

19 JUDGE: It's in.

20 MR. PHILLIPS: Okay.

21 JUDGE: This is Tennis Channel
22 Exhibit 506 which is now into evidence as 506.

1 Thank you.

2 (The document referred to having
3 been previously marked for
4 identification as Tennis Channel
5 Exhibit No. 506, was received in
6 evidence.)

7 MR. PHILLIPS: And where I'm
8 interested in this, Ms. Gaiski, to begin with
9 is the very first email in a chain I believe
10 which is on the second page.

11 JUDGE: This flips around to the
12 back.

13 MR. PHILLIPS: It does. We were
14 trying to protect the environment, Your Honor.

15 JUDGE: Well, it's a very green
16 memo document in spirit. But it's literally
17 white. Right? We go back and back.

18 BY MR. PHILLIPS:

19 Q Now this email on the back page is
20 from Mr. Dannenbaum to you around the 3rd of
21 June. Correct?

22 A Yes, sir.

1 Q Now let's just pause for a second
2 and make sure we know who Mr. Dannenbaum is.
3 Can you identify him for us?

4 A At this time, Alan Dannenbaum was
5 the EVP of Network Distribution and
6 Development for the Comcast programming side.

7 Q So he's on the opposite side of
8 you. Correct?

9 A That's right.

10 Q He's one of the guys that you're
11 supposed to treat at arm's length. Right?

12 A Yes.

13 Q And he's asking you here -- He's
14 giving you a list of melt opportunities for
15 Versus and Golf. Do you see that?

16 A That's what he calls melt
17 opportunities. Yes.

18 Q And melt opportunities are places
19 where there may be opportunities to take
20 Versus and Golf and get even more distribution
21 than the digital carriage that they already
22 have. Correct?

1 A That's right.

2 Q And he's giving you this list and
3 asking you frankly if you can help find or
4 capitalize on these melt opportunities. Is
5 that right?

6 A That's right.

7 Q He's acting as a salesman for
8 Versus and Golf here essentially. Correct?

9 A That's right.

10 Q Now I'd like to turn your
11 attention to some other efforts that were
12 taken. You also got involved in making sure
13 that Comcast complied with its contracts on
14 the Versus and programming side, right, from
15 time to time?

16 A That's right.

17 Q All right. So that in November
18 2009 you were contacted about the Versus
19 contract. Do you recall this?

20 A No, I do not.

21 Q My colleague, Ms. Pogoriler, asked
22 you about this during your deposition. There

1 was a deal that Versus had with the NHL in
2 which the Versus got to show some of the
3 hockey games on Versus. Do you remember that
4 deal?

5 A I remember generally the issue
6 around it.

7 Q Right. And what you were told is
8 that in order to make sure that Comcast
9 complied with that contract they had to get at
10 least ■ percent penetration level on the
11 distribution side, your side. Correct?

12 A I believe what they said was that
13 the deal that Versus had done with the NHL the
14 NHL had required Versus to make sure that the
15 individual channel was not on a tier with less
16 than ■ percent carriage.

17 Q Right. So they told you that
18 "Look our contract requires this that we have
19 to have a tier of at least this much
20 penetration." Is that right?

21 A That is right.

22 JUDGE: Where do you get ■

1 percent? What is the [REDACTED] percent measured?

2 What is that? I don't understand. [REDACTED]

3 percent of what?

4 THE WITNESS: Total subscribers.

5 Those would be the broadcast basic

6 subscribers.

7 JUDGE: So of everybody that

8 subscribers to Comcast in any way, shape or

9 form?

10 THE WITNESS: That's right.

11 JUDGE: [REDACTED] percent of that.

12 THE WITNESS: That you couldn't

13 put Versus on the level of service that had

14 less than [REDACTED] percent of the total subscribers

15 buying it. And the NHL put that requirement

16 on Versus when the NHL gave Versus the license

17 to show their games. And then Versus had to

18 go to the entire industry and make sure that

19 that happened.

20 MR. PHILLIPS: And for --

21 JUDGE: Wait, wait. Well, why the

22 entire industry? Versus is just affiliated

1 with Comcast.

2 THE WITNESS: Versus is carried by
3 every MVPD in the industry.

4 JUDGE: That makes sense. I'm
5 sorry. Go ahead. I understand. Thank you.

6 BY MR. PHILLIPS:

7 Q And they asked you to confirm that
8 Versus was going to be carried at least at a
9 ■ percent level. Correct?

10 A I generally remember that. Yes.

11 MR. PHILLIPS: And if I may
12 approach, Your Honor, I'll show the witness a
13 document that she executed on this.

14 JUDGE: Yes.

15 MR. PHILLIPS: It's already in
16 evidence, Your Honor. Tennis Channel Exhibit
17 84.

18 JUDGE: That sounds familiar.
19 Thank you.

20 THE WITNESS: Thank you.

21 MR. PHILLIPS: You can tell from
22 the double digits like Comcast these are older

1 documents.

2 JUDGE: These were the ones that
3 were slipped in nicely in the beginning.
4 Right? I want you to know I would be willing
5 to go out and duck hunt with either side.

6 (Laughter.)

7 BY MR. PHILLIPS:

8 Q And, Ms. Gaiski, if you've got the
9 Exhibit 84 in front of you, this is the memo
10 you wrote back that at the bottom -- Well,
11 actually, Ms. Cartwright wrote it. I'm sorry.
12 Who is Ms. Cartwright?

13 A She's an analyst that works for
14 me.

15 Q And you checked with her to make
16 sure that you were in compliance with the
17 Versus contract.

18 A It looks like that's what I'm
19 doing here.

20 Q And she wrote back to you and
21 confirmed that you were in compliance with the
22 Versus contract. Correct?

1 A Right. She writes, "I confirmed
2 that we do not have any carriage higher than
3 D1."

4 Q Now I'd like to change the subject
5 again for you shortly. You recall there was
6 a time at which the Tennis Channel thought it
7 had a deal with the Bay area in order to
8 supply 500 new tennis rackets to any new
9 subscribers and in return the Bay area was
10 going to melt down as we've been using the
11 term the system from the sports tier to a more
12 broadly distributed tier. Do you recall
13 talking about this before?

14 A I didn't know anything about that.

15 Q Okay. Do you recall you got
16 questioned about it at your deposition?

17 A That's right.

18 MR. PHILLIPS: Let me if I may --
19 If I may approach, Your Honor. I'm going to
20 do this two at once with two exhibits I'd like
21 to put forth before the witness.

22 JUDGE: Let's see how it works.

1 MR. PHILLIPS: It's Tennis Channel
2 30. These are already into evidence. And
3 Tennis Channel 31.

4 JUDGE: We're going to work with
5 two documents simultaneously.

6 MR. PHILLIPS: Two documents.
7 It's just a set-up for some further questions,
8 Your Honor.

9 JUDGE: Tennis Channel Exhibit 30
10 and 31. All right. This is September and
11 November of 2006.

12 BY MR. PHILLIPS:

13 Q Now I realize that you're not on
14 these documents, Ms. Gaiski, but I just wanted
15 to go through it a little bit. The first --
16 Mr. Rick Lange who's on 30, who is that?

17 A I believe he was the Vice
18 President of Marketing for the Bay area.

19 Q Okay. And if you notice that Mike
20 Kim sent him an email on September 6, 2006
21 talking about the Wilson W6 Blue Steel In Code
22 Racquet. Do you see that?

1 A Yes.

2 Q And he's talking about a potential
3 offer that they're going to give these
4 racquets off to any new subscribers in return
5 for broader distribution. Do you see that?

6 A Yes.

7 Q Mr. Lange from Comcast says, "You
8 bet we're interested and we're assigning
9 Channel 411 for the Tennis Channel on D2 in
10 the sports tier." Do you see that?

11 A I do.

12 Q Now D2 on the sports tier, that
13 means that it's going to be on the sports
14 tier, but it's also going to be on D2.
15 Correct?

16 A Seems like that's what Rick was
17 talking to Mike about.

18 Q Right. And that's called dual
19 illumination. Right?

20 A That's right.

21 Q And some of your other networks
22 are dual illuminating. Correct?

1 A Yes.

2 Q Like the NFL network for example.

3 A Yes.

4 Q Where you show them both on the
5 sports tier but they also have much broader
6 distribution.

7 A In the case of NFL, it's on D1 as
8 well.

9 JUDGE: Whoa. Wait a minute.
10 What was the last thing you said?

11 THE WITNESS: In the case of NFL,
12 it's also on digital classic. So it's on the
13 sports tier and digital classic. That's
14 called dual illumination.

15 JUDGE: I see that concept. Yes.
16 Okay. That means what? Where is the
17 illumination part?

18 MR. PHILLIPS: It's not in there,
19 Your Honor. It's just to assign Tennis
20 Channel to be on both the broader channel, the
21 broader tier, and the sports tier is a
22 phenomenon called dual illumination.

1 MR. CARROLL: And, Your Honor, I'm
2 not objecting to the questioning. I'll just
3 note that the witness is not on these emails
4 and that there's no foundation established
5 that she knows anything about what's on these
6 emails.

7 JUDGE: I'm sure we'll get to
8 that.

9 MR. CARROLL: I think we've
10 already established that actually.

11 BY MR. PHILLIPS:

12 Q If you look at 31 for a second,
13 Mr. Lange writes back to his colleague at the
14 Tennis Channel -- Mr. Lange at Comcast writes
15 -- "Mike, they were approved in Denver." Now
16 Denver is the division office.

17 A That's right.

18 Q "And send to Philly." That's
19 where you are. Right?

20 A I work in Philly, yes.

21 Q "We hope to hear something this
22 week." So actually to these emails, it looks

1 like San Francisco and the Bay area has
2 approved it. It didn't get approved though,
3 did it?

4 MR. CARROLL: Objection. It
5 proved it.

6 MR. PHILLIPS: Approved the launch
7 of the Tennis Channel on a broader tier.

8 THE WITNESS: We have no record of
9 receiving a CCR asking us to launch in detail.

10 BY MR. PHILLIPS:

11 Q I understand that. So what's
12 being discussed in Exhibits 30 and 31 from
13 your knowledge was never approved at Comcast
14 in Philadelphia. Correct?

15 A From my knowledge it was never
16 requested.

17 Q Okay. But it was also never
18 approved. Correct?

19 A Of course, it was never approved
20 if it was never requested.

21 MR. PHILLIPS: That's all I
22 wanted. Let me ask -- If I may approach, Your

1 Honor. I have one final exhibit on this line
2 of questioning which is Tennis Channel Exhibit
3 48 which I believe is also in.

4 JUDGE: Let's see what it looks
5 like. Thank you.

6 THE WITNESS: Thank you.

7 JUDGE: This is dated 2007. This
8 is subsequent to Tennis Channel 30 and 31. Go
9 ahead.

10 MR. PHILLIPS: Yes, Your Honor.

11 BY MR. PHILLIPS:

12 Q Now do you recall? This describes
13 a meeting with Mr. Turpin with you, Ms.
14 Gaiski.

15 A That's what this email is about.
16 I don't recall meeting with Eric Turpin.

17 Q Okay. Now I'm looking at the
18 second bullet on this one. It starts off
19 where it says, "Tennis Channel Migrations."

20 Mr. Turpin writes, "I expressed
21 our deep displeasure of these migrations and
22 Jen stated the following." And if I may read

1 it and follow along with me. "She also stated
2 the decision not to launch Tennis Channel on
3 D2 in the Bay area came from the 35th floor,
4 Brian Roberts and Steve Badeau. Their logic
5 was the pending battle with NFL and if they
6 start making considerations for services on
7 the sports tier why have a sports tier. I
8 asked if the division we should migrate to
9 this channel to D2. Would corporate stand in
10 the way? And Jen stated based on the current
11 situation with NFL and Big Ten Network they
12 would not approve the migration." Do you see
13 that, Ms. Gaiski?

14 A I do see that.

15 Q And does that accurately state the
16 conversations that you had with Mr. Turpin?

17 A No. I don't recall having a
18 conversation with Eric Turpin.

19 Q So you don't recall one way or the
20 other about this. Correct?

21 A No. I know Eric, but I wouldn't
22 normally deal with Eric.

1 MR. CARROLL: Eric?

2 THE WITNESS: Turpin.

3 JUDGE: Who is what? He is what
4 or who? He's on this document.

5 MR. PHILLIPS: Mr. Turpin is with
6 the Tennis Channel, Your Honor.

7 JUDGE: In what capacity?

8 MR. PHILLIPS: I believe that he
9 is a person in charge of distribution or one
10 of the people in charge of distribution at the
11 Tennis Channel.

12 JUDGE: Thank you.

13 BY MR. PHILLIPS:

14 Q Now as I understand it you never
15 issued an explicit instruction to the field to
16 leave the Tennis Channel in the sports tier.
17 Is that correct?

18 A To leave the Tennis Channel in the
19 sports tier?

20 Q Right. In other words, not to
21 melt it down.

22 A During the '05-'06 time frame, we

1 were very much involved in launching the
2 sports tier throughout the company. So we
3 were talking to people about putting Tennis
4 Channel on sports tier.

5 Q And you communicated in the '05-
6 '06 and also '07 time frame that you wanted to
7 leave Tennis Channel on the sports tier.
8 Correct?

9 A Well, no. What I recall is that
10 in '07 that's when I actually started reaching
11 out for the most part. We did a little bit in
12 the '05-'06 time frame. We reached out to
13 some systems. But then we continued to do
14 that in the '07 time frame a little bit more
15 seriously because at that point in time sports
16 tier had been distributed to a great deal of
17 our company.

18 Q Ms. Gaiski, you communicated
19 guidelines at some point to the field about
20 what networks should be on the sports tier.
21 Correct?

22 A I don't recall specifically, but